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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,235	01/04/2005	Jurgen Eitenmuller	04-670	5100
34704 7590 08/02/2007 BACHMAN & LAPOINTE, P.C. 900 CHAPEL STREET SUITE 1201 NEW HAVEN, CT 06510			EXAMINER NIA, ALIREZA	
			ART UNIT 3709	PAPER NUMBER
			MAIL DATE 08/02/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/520,235

Applicant(s)

EITENMULLER ET AL.

Examiner

Alireza Nia

Art Unit

3709

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4, 7, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Fiore US 3,675,641, that teaches the invention as claimed.

3. Fiore teaches a proctoscope 10 comprising a hollow-cylindrical body 11 (col. 2, lines 64, 65, 67-68) having a tapering (col. 3, lines 4-6) at a distal end portion at 13 wherein the body has a hole to form an operation window 13, an opening at the other end 14 (col. 3, lines 4-6), a handle portion 23, means for illuminating 24, and lighting means 25 directed onto the operation window 13 (col. 4, lines 24-26 and 44-50) wherein the operation window is formed as a cut-out in an outer wall of the proctoscope body 11 such that it extends into the tapering distal end portion at 13 (figure 1). Fiore also teaches an obturator 22 for insertable cooperation with the proctoscope body 11 that when the obturator 22 is inserted into the proctoscope body 11 at least partially closes off the operation window 13 and the obturator 22 has a tongue-like closure portion 21 (col. 3, lines 56-61 and figure 1). Further, Fiore teaches the handle portion 23 at the opening end 14 of the proctoscope body 11 where the handle 23 is angled with respect to the proctoscope body 11 and forming a hollow space 30 (col. 5, lines 29-48, figure 1).

4. Claims 1 and 5-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Morinaga US 5,570,692, that teaches the invention as claimed.

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5. Morinaga teaches a proctoscope 10 comprising a hollow-cylindrical body 12 having a tapering at a distal end portion 14, an opening at the other end 16 and a handle portion 18, wherein the body has a hole to form an operation window 20 (col. 2, lines 23-33 and fig. 1), means for illuminating 40 (col. 2, lines 55-58) comprising lighting means 42 (col. 2, line 59) and means for detecting vessels by means of sensors 22 provided in the body 12 (col. 2, lines 33-37), wherein the operation window 20 is formed in an outer wall of the body 12 (col. 2, line 33 and fig. 1). Morinaga also teaches that operation window 20 opens a free hole area of 350 to 450 mm² in the outer wall of body 12 (col. 3, line 23). It is further taught by Morinaga that the sensor 22 is an ultrasound sensor installed in a wall portion of the body 12 adjacent to the operation window 20 (col. 3, lines 23-30), wherein sensor 22 is connected to vessel detection electronics 62 outside the casing of the body 12 (col. 3, lines 48-52). Moreover, the handle 18 is taught by Morinaga to be a grip (col. 2, line 32) being angled with respect to the body 12 (fig. 1) forming a hollow space 5 (fig. 3) for the passage of supply lines 4 (col. 3, lines 35-40 and fig. 1) and indicating a circumferential position (col. 2, lines 32-33).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fiore US 3,675,641 in view of Moore et al. US 3,417,746. Fiore discloses the

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invention as discussed above with the exception of the following claimed limitations taught by Moore: an obturator having a handle portion 42 protruding out of the opening of a proctoscope (col. 3, lines 34-37), a light-permeable reflector element 59 in the tapering end portion of a proctoscope (col. 4, lines 9-18). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the proctoscope 10 and obturator 22 of Fiore in view of the limitations taught by Moore in order to provide an instrument having disposable parts that during use they would prevent any contact while efficiently illuminating the area examined or worked on, as taught by Moore (col. 1, lines 39, 51-52).

8. Claims 5, 6, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fiore US 3,675,641 in view of Morinaga US 5,570,692. Fiore discloses the invention as discussed above with the exception of the following claimed limitations taught by Morinaga: a probe hole area of 350 to 400 mm² (126 mm² to 1141 mm²) (col. 2, lines 41-43), an ultrasound sensor 22 capable of Doppler effect (col. 2, lines 35 and col. 3, lines 23-40) connected to vessel detection electronics 60 (col. 3, lines 41-53) and its method of use in an operation (col. 3, col. 4). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the proctoscope 10 of Fiore in view of the limitations taught by Morinaga in order to provide an ultrasonic Doppler blood flow detector and its method of use for hemorrhoid artery ligation through a ligation hole, as taught by Morinaga (col. 1, lines 7-9 et seq. lines 64-65).

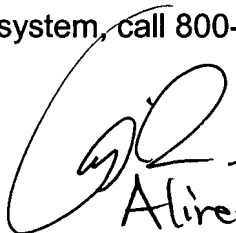
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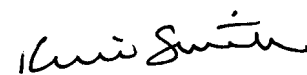
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alireza Nia whose telephone number is 571-270-3076. The examiner can normally be reached on Mo.-Fri.-7:30 AM-5:00 PM EST-Alternate Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenburg can be reached on 571-272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Alireza Nia
07/31/07


KIMBERLY S. SMITH
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7/31/07